

SECOND REGULAR SESSION  
SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE BILL NO. 788**  
93RD GENERAL ASSEMBLY

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Reported from the Committee on Commerce, Energy and the Environment, April 3, 2006, with recommendation that the Senate Committee Substitute do pass.

3932S.03C

TERRY L. SPIELER, Secretary.

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**AN ACT**

To repeal sections 323.020 and 323.100, RSMo, and to enact in lieu thereof two new sections relating to the Missouri propane safety act.

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*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 323.020 and 323.100, RSMo, are repealed and two new  
2 sections enacted in lieu thereof, to be known as sections 323.020 and 323.100, to  
3 read as follows:

323.020. 1. The director of the department of agriculture shall make,  
2 promulgate and enforce regulations setting forth general standards covering the  
3 design, construction, location, installation and operation of equipment for storing,  
4 handling, transporting by tank truck, tank trailer, and utilizing liquefied  
5 petroleum gases and specifying the odorization of such gases and the degree  
6 thereof. The regulations shall be such as are reasonably necessary for the  
7 protection of the health, welfare and safety of the public and persons using such  
8 materials, and shall be in substantial conformity with the generally accepted  
9 standards of safety concerning the same subject matter. Such regulations shall  
10 be adopted by the director of the department of agriculture pursuant to chapter  
11 536, RSMo. Any rule or portion of a rule, as that term is defined in section  
12 536.010, RSMo, that is promulgated under the authority of this chapter, shall  
13 become effective only if the agency has fully complied with all of the requirements  
14 of chapter 536, RSMo, including but not limited to section 536.028, RSMo, if  
15 applicable, after January 1, 1999. All rulemaking authority delegated prior to  
16 January 1, 1999, is of no force and effect and repealed as of January 1, 1999,  
17 however nothing in this act shall be interpreted to repeal or affect the validity of

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18 any rule adopted and promulgated prior to January 1, 1999. If the provisions of  
19 section 536.028, RSMo, apply, the provisions of this section are nonseverable and  
20 if any of the powers vested with the general assembly pursuant to section 536.028,  
21 RSMo, to review, to delay the effective date, or to disapprove and annul a rule or  
22 portion of a rule are held unconstitutional or invalid, the purported grant of  
23 rulemaking authority and any rule so proposed and contained in the order of  
24 rulemaking shall be invalid and void, except that nothing in this act shall affect  
25 the validity of any rule adopted and promulgated prior to January 1, 1999.

26       2. Except as specifically provided in subsection 1 of section 323.060,  
27 regulations in substantial conformity with the published standards of the National  
28 [Board of Fire Underwriters] **Fire Protection Association** for the design,  
29 installation and construction of containers and pertinent equipment for the  
30 storage and handling of liquefied petroleum gases as recommended by the  
31 National Fire Protection Association shall be deemed to be in substantial  
32 conformity with the generally accepted standards of safety concerning the same  
33 subject matter.

34       **3. The director shall establish an advisory committee which shall**  
35 **consist of seven members as follows:**

36       (1) **One member representing the department of agriculture;**

37       (2) **One member representing the state fire marshals office;**

38       (3) **One member representing the Missouri Propane Gas**  
39 **Association;**

40       (4) **One member actively conducting business as a retailer of**  
41 **propane gas;**

42       (5) **One member representing wholesalers or resellers of propane**  
43 **gas;**

44       (6) **One member representing the transportation of propane gas**  
45 **or affiliated industries;**

46       (7) **One member representing companies that service, repair and**  
47 **install liquefied petroleum gas appliances, tanks, and equipment.**

48 **With the exception of the members representing the department of**  
49 **agriculture and the state fire marshal, the remaining members**  
50 **appointed by the director shall serve three-year terms except that the**  
51 **director shall designate one of the original appointees to be appointed**  
52 **for one year, two members to be appointed for two years, and two**  
53 **members to be appointed for three years.**

54           **4. The advisory committee established under this section shall**  
55 **report to the director of agriculture. The committee shall monitor the**  
56 **activity of the inspection program and recommend to the director any**  
57 **statutory or administrative changes as may be necessary to assure the**  
58 **efficient and effective operation of the inspection program. The**  
59 **committee shall meet as determined or deemed necessary by the**  
60 **director. Actual expenses incurred by committee members in**  
61 **association with said committee activity shall be reimbursable from the**  
62 **fee fund created in section 323.100. Expense reimbursement requests**  
63 **shall be documented and submitted to the department of agriculture**  
64 **fiscal office on an approved expense account form provided by the**  
65 **director at the end of the month in which the expense was incurred.**

          323.100. 1. The director of the department of agriculture shall annually  
2 inspect and test all liquid meters used for the measurement and retail sale of  
3 liquefied petroleum gas and shall condemn all meters which are found to be  
4 inaccurate. All meters shall meet the tolerances and specifications of the National  
5 Institute of Standards and Technology Handbook 44, 1994 edition and  
6 supplements thereto. It is unlawful to use a meter for retail measurement and  
7 sale which has been condemned. All condemned meters shall be conspicuously  
8 marked "inaccurate", and the mark shall not be removed or defaced except upon  
9 authorization of the director of the department of agriculture or his authorized  
10 representative. It is the duty of each person owning or in possession of a meter  
11 to pay to the director of the department of agriculture at the time of each test a  
12 testing fee of ten dollars, except that the testing fee herein provided for shall not  
13 be applied more than once in a calendar year to each meter tested.

14           **2. The fee for the inspection of retail liquid propane meters and**  
15 **the safety inspection in the storage, handling, transportation, and**  
16 **utilization of liquefied petroleum gas shall be fixed by the director of**  
17 **the department of agriculture at a minimum rate of one-tenth of one**  
18 **cent per gallon of odorized propane which shall approximately yield**  
19 **revenue equal to the expenses of administering the provisions of this**  
20 **chapter, except that until December 31, 2006, the rate shall be two-**  
21 **tenths of one cent per gallon and beginning January 1, 2007, the fee**  
22 **shall not be less than one-tenth per gallon nor exceed three-tenths cent**  
23 **per gallon of odorized propane.**

24           **3. The owner of propane immediately prior to odorization in this**

25 state or the owner at the time of import into this state of odorized  
26 propane shall be responsible for the payment of fees on the volume at  
27 the time of import or odorization. Fees shall be remitted to the director  
28 of revenue, on forms prescribed by the director, on a monthly basis by  
29 the twenty-fifth of the month following the month of collection. Non  
30 odorized propane shall not be subject to fees until odorized. Fees on  
31 liquefied petroleum gas shall be paid on gallons received, less any  
32 exports out of state. When the inspection fee has been paid on liquefied  
33 petroleum gas which is then shipped out of this state for use, sale or  
34 distribution, credit or refund shall be allowed for the amount so paid.

35 4. Annually the director of agriculture shall ascertain the total  
36 expenses for administering sections 323.010 to 323.110 during the  
37 preceding year, and shall forward a copy of such expenses to the  
38 director of revenue. Based on the recommendations from the  
39 department of agriculture, the director of revenue shall fix the  
40 inspection fee for the ensuing calendar year at such a rate per gallon,  
41 within the limits established by subsection 2 of this section, as will  
42 approximately yield revenues equal to the expenses of administering  
43 sections 323.010 to 323.110 during the preceding calendar year and shall  
44 collect the fees and deposit them in the state treasury to the credit of  
45 the "Liquefied Petroleum Gas Inspection Fund" which is hereby  
46 created. After August 28, 2006, all expenses of administering sections  
47 323.010 to 323.110 shall be paid from appropriations made out of the  
48 liquefied petroleum gas inspection fund.

49 5. The unexpended balance in the fund at the end of each fiscal  
50 year shall not be transferred to the general revenue fund of the state,  
51 and the provisions of section 33.080, RSMo, relating to the transfer of  
52 funds to the general revenue fund of the state by the state treasurer  
53 shall not apply to this fund.

54 6. The state treasurer shall invest all sums in the liquefied  
55 petroleum gas fee fund not needed for current operating expenses in  
56 interest-bearing banking accounts or United States obligations in the  
57 manner provided by law. All yield, increment, gain, interest, or income  
58 derived from the investment of these sums shall accrue to the benefit of,  
59 and be deposited within the state treasury to the credit of the liquefied  
60 petroleum gas inspection fee fund.

61 7. The provisions of this section shall not apply to the provisions



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